

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
BROWNSVILLE DIVISION**

STATE OF TEXAS, ET AL.

Plaintiffs

v.

UNITED STATES OF AMERICA, ET AL.

Defendants.

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)
) **MOTION FOR LEAVE TO FILE**
) **OVERLENGTH *AMICUS CURIAE***
) **BRIEF IN SUPPORT OF**
) **PLAINTIFFS MOTION FOR**
) **PRELIMINARY INJUNCTION**

) **Case No. 1:14-cv-00254**
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**MOTION OF IMMIGRATION REFORM LAW INSTITUTE, INC.
FOR LEAVE TO FILE OVER-LENGTH *AMICUS CURIAE* BRIEF
IN SUPPORT OF PLAINTIFFS MOTION FOR PRELIMINARY INJUNCTION**

The Immigration Reform Law Institute, Inc. (IRLI), through counsel, respectfully moves this Court for leave to file an over-length *amicus curiae* brief in support of the motion for a preliminary injunction filed by the State Plaintiffs pursuant to the Plaintiffs' First Amended Complaint. *See* Docket Nos 5, 14.

A copy of the proposed brief and a proposed order are attached to this motion. The lodged brief is in 12 point Times Roman font, and is 31 pages or 9,882 words in length, excluding the caption page, certifications, and tables of contents and authorities.

This motion is based upon the following grounds:

1. IRLI has contacted counsel for both the State Plaintiffs and the Defendants. Counsel for both have stated that they take no position on the motion.
2. The court has previously granted leave for both the Plaintiffs and the Defendants to file over-length briefs. Docket Nos. 6 and 37. The parties have emphasized the complex character of the issues of law raised by the Amended Complaint as a factor necessitating additional exposition and analysis.
3. IRLI's interest as *amicus curiae* is aligned with but distinct from that of the State Plaintiffs. The Immigration Reform Law Institute, Inc. is America's only public interest legal education and defense organization exclusively dedicated to advocating for the rights and interests of Americans in immigration-related matters. Plaintiffs Amended Complaint states, "This lawsuit is not about immigration." Docket No. 14, ¶ 2. IRLI would respectfully disagree. The broader questions of separation of powers should not be adjudicated without first determining the specific duties and powers assigned by statute to the respective branch of government with the field of law at issue, in this case the enforcement of immigration admissions and removals.
4. IRLI has studied the growing controversy over the proper separation of powers in the immigration context for years, and has distilled the relevant statutory provisions and legislative history into an accessible format not provided by the parties or other amici. Separate sections summarize (I) the controlling status of relevant Immigration and Nationality Act (INA) provisions over internal executive branch policy memoranda, (II) the mandatory character of eight interlocking provisions of the INA that restrict agency deferrals of removal based on the exercise of

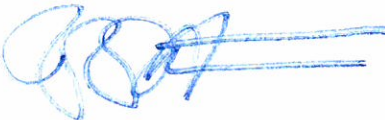
prosecutorial discretion, and (III) the legislative history of Congressional action when confronted with extra-statutory bureaucratic attempts to assert exclusive discretionary power over the admission and removal of aliens. IRLI believes this format will assist the review of the court and better insure a plenary presentation of the difficult and momentous questions facing the court at the preliminary motion stage.

5. Filing of the amicus brief should not prejudice either party. The Plaintiffs have filed an unopposed motion for extension of time for the exchange of briefs until mid-January 2015. IRLI attempted to register for CM/ECF access on December 26, 2014. Registration could not be completed due to the Court's holiday leave schedule. IRLI then provided a courtesy copy of the proposed brief to plaintiff, defendant and amici counsel on December 31, 2014.

WHEREFORE:

Movants respectfully request that this Court grant this motion, allow them to participate as *amicus curiae*, and accept for filing the amicus brief submitted with this motion.

Dated this 6th day of January, 2015.

/s/ 

Michael M. Hethmon*

Dale L. Wilcox**

Attorneys for Proposed *Amicus Party*
Immigration Reform Law Institute, Inc.

*Admitted in Maryland and DC

** Admitted in Indiana

Admission PHV pending

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PROPOSED ORDER

Upon consideration of the motion of Immigration Reform Law Institute, Inc. for Leave to File an Overlength *Amicus Curiae* Brief in Support of Plaintiffs Motion for Preliminary Injunction, it is hereby ORDERED that the motion is GRANTED.


Signed on January _____, 2015.

Hon. Andrew S. Hanen
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this ^{7th} ~~6th~~ day of January, 2015, I caused to be electronically filed the foregoing **MOTION FOR LEAVE TO FILE OVERLENGTH AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS MOTION FOR A PRELIMINARY INJUNCTION**, and the **LODGED BRIEF thereto**, with the Clerk of the Court, using the CM/ECF system, which sent notification to all parties, who are duly registered therewith.

/s/



Michael M. Hethmon
Attorney for Proposed *Amicus Curiae*:
Immigration Reform Law Institute, Inc.